



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/092,791 06/05/98 EICHSTAEDT M AM9-98-023

TM01/1116

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EXAMINER

KANG, P

ART UNIT	PAPER NUMBER
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2152

Handwritten number: 8

DATE MAILED:

11/16/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Handwritten initials: J.Y.

Advisory Action

Application No.

09/092,791

Applicant(s)

EICHSTAEDT ET AL.

Examiner

Art Unit

Paul H Kang

2152

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 November 2000 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either a timely filed amendment which places the application in condition for allowance or a Notice of Appeal. Alternatively, applicant may obtain further examination by timely filling a request for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d).

PERIOD FOR REPLY [check only a) or b)]


- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 707.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136 (a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked.

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☒ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search. (see NOTE below);
(b) ☐ they raise the issue of new matter. (see Note below);
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

4. ☐ Applicant's reply has overcome the following rejection(s): _____.
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☐ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-13 AND 15-39 *pc 4/5/01*
Claim(s) withdrawn from consideration: _____.
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
11. ☐ Other: _____


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Continuation of 6. does NOT place the application in condition for allowance because: the arguments presented in the request for reconsideration are not deemed to be persuasive. The Applicant argued in substance that "even when combined, the references do not teach or suggest the Applicant's claimed invention.

For example, Judson merely describes that informational messages are always displayed while the client is waiting for a reply, regardless of whether a sufficient delay occurs during the accessing of data. The IBMTDB teaches that web site URLs should be checked while the user is reading a web page, not while the client is waiting for a reply to a previous request. Ching estimates traffic rates for a number of different reasons..."

The Examiner believes the combination to teach the invention as claimed. Judson teaches the invention substantially as claimed. Judson teaches using filler data while a web page is being downloaded. The filler data is used to more efficiently use downtime and significantly increase the value of the on-line session (see Judson, col. 1, lines 13 - col. 3, line 12 and col. 7, lines 26-44). However, Judson does not specifically disclose methods to determine the downtime. IBMTDB and Ching together provide the methods of determining the downtime. Therefore, the combination of Judson-IBMTDB-Ching teaches the invention as claimed.



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